Canadian International Trade Tribunal

2010-2011

Report on Plans and Priorities

The Honourable James M. Flaherty
Minister of Finance

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CHAIRPERSON'S MESSAGE

I am pleased to present the 2010-2011 Report on Plans and Priorities (RPP) for the Canadian International Trade Tribunal (the Tribunal).

The Tribunal's mandate is to provide the fair, transparent, timely and effective disposition of international trade cases, government procurement reviews and other matters in various areas of the Tribunal's jurisdiction. The Tribunal inquires into trade-related complaints (i.e. dumping, subsidizing and safeguards) and complaints regarding federal government procurement. The Tribunal hears appeals from decisions of the Minister of National Revenue and the Canada Border Services Agency (CBSA) under the *Excise Tax Act* and the *Customs Act* respectively. In its advisory role, the Tribunal undertakes general economic inquiries and tariff references for the Minister of Finance or the Governor in Council. In so doing, the Tribunal contributes to Canada's competitiveness and a fair and secure marketplace.

With the economic recovery now underway, the Tribunal is preparing itself for a busy year ahead. Trade remedies cases are expected to increase, as domestic producers and importers position themselves to participate in the growing economy. As well, procurement cases should continue their upward trend. This trend is influenced both by the continued importance of government procurement to the private sector during this period of economic recovery and by an increased awareness of the Tribunal's procurement work. The government's emphasis on accountability, including the work of the Procurement Ombudsman, has increased this awareness. The appeal caseload will also be heavy, as the Tribunal addresses a backlog of cases carried forward from 2009-2010. The Tribunal has received supplementary funding through to fiscal year 2011-2012 that will enable it to manage effectively this increase in caseload.

The Tribunal's main priority for 2010-2011 continues to be the fair, timely and effective disposition of cases, and the supporting priority remains that of continuous improvement, as the Tribunal targets initiatives under three broad categories: investment in its people, sound management practices and improved service delivery.

Under the category of investment in its people, the Tribunal's priorities for 2010-2011 are recruitment and staffing, professional development, inclusiveness in its workforce and staff recognition. Under sound management practices, the Tribunal will continue to focus on effective planning and rigorous management practices. Of particular note, the Tribunal will initiate a review of its rules of procedure in order to streamline proceedings before the Tribunal and to reduce the paper burden imposed on parties. Under improved service delivery, the Tribunal's priorities are to increase the efficiency and reliability of its information technology (IT) infrastructure, improve its information management function and provide parties with electronic access to its case files. Through these initiatives, the Tribunal will contribute to advancing government priorities by enhancing its services to Canadians, improving its accountability and ensuring the transparency of its operations.

André F. Scott
Chairperson

SECTION I—TRIBUNAL OVERVIEW

Raison d'être

The Tribunal provides Canadian and international businesses with access to fair, transparent and timely processes for the investigation of trade remedies cases and complaints concerning federal government procurement and for the adjudication of appeals on customs and excise matters. At the request of the Government, the Tribunal provides advice in tariff, trade, commercial and economic matters.

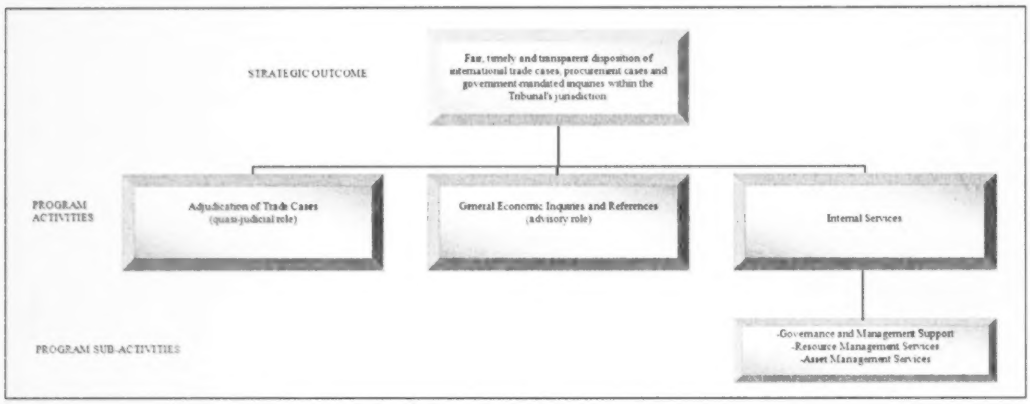
Responsibilities

The Tribunal was established in December 1988 under the *Canadian International Trade Tribunal Act* (*CITT Act*). It acts as an independent, investigative and quasi-judicial decision-making body that reports to Parliament through the Minister of Finance. The Tribunal also derives authority from the *Special Import Measures Act* (*SIMA*), the *Customs Act* and the *Excise Tax Act*. The Tribunal's office is located in Ottawa, Ontario.

Under *SIMA*, the Tribunal conducts inquiries into whether dumped and/or subsidized imports have injured Canadian manufacturers. Pursuant to the *Customs Act*, the *Excise Tax Act* and *SIMA*, the Tribunal is empowered to deal with appeals from decisions of the Minister of National Revenue and the CBSA on various excise and customs matters. The Tribunal has also been designated as the bid challenge authority on federal government procurement matters under the *Agreement on Internal Trade*, the *North American Free Trade Agreement* (*NAFTA*), the World Trade Organization (WTO) *Agreement on Government Procurement* and the *Canada-Chile Free Trade Agreement*. Under the *CITT Act*, the Tribunal inquires into and provides advice on such economic, trade, commercial and tariff issues as are referred to the Tribunal by the Governor in Council or the Minister of Finance. It also undertakes safeguard inquiries under the *CITT Act* and is empowered, on complaint by an interested party or as directed by the Government, to carry out inquiries into rapid increases in imports (including through special procedures for imports specifically from the People's Republic of China), and to formulate recommendations to the Government for dealing with such imports.

Strategic Outcome and Program Activity Architecture

The chart bellow illustrates the Tribunal's complete framework of program activities and program sub-activities.


STRATEGIC OUTCOME
Fair, timely and transparent disposition of international trade cases, procurement cases and government-mandated inquiries within the Tribunal's jurisdiction
PROGRAM ACTIVITIES
Adjudication of Trade Cases (quasi-judicial role)
General Economic Inquiries and References (advisory role)
Internal Services
PROGRAM SUB-ACTIVITIES
-Governance and Management Support
-Resource Management Services
-Asset Management Services

Planning Summary

Financial Resources ($ thousands)

2010-2011	2011-2012	2012-2013
11,941	11,441	9,901

Human Resources (Full-time Equivalents [FTEs])

2010-2011	2011-2012	2012-2013
96	91	77

Strategic Outcome 1

Fair, timely and transparent disposition of international trade cases, procurement cases and government-mandated inquiries within the Tribunal's jurisdiction.

Performance Indicators	Targets
Tribunal decisions overturned by the Federal Court of Appeal or international appeal bodies	Less than 2 percent of all decisions rendered are overturned by the Federal Court of Appeal or international appeal bodies.
Soundness of the Tribunal's decisions—Overturned decisions with "due process"	Less than 1 percent of all decisions rendered are overturned by the Federal Court of Appeal or international appeal bodies on judicial review dealing specifically with "due process".

Performance Indicators	Targets
Tribunal notices, decisions and guidelines are accessible to the public.	All notices, decisions and guidelines for all areas of its mandate and practice notices are accessible to the public through the Tribunal's Web site, the *Canada Gazette* and/or MERX (Canada's electronic tendering system).
Decisions are rendered within statutory deadlines.	All decisions are published within the statutory deadlines.
Appeal decisions are rendered within internal deadlines.	Seventy percent of decisions on appeals are published within internal deadlines.
Recommendations meet the terms of reference and provide requested information.	All recommendations and reports meet the terms of reference and provide requested information.
Reports, determinations and recommendations are published within statutory deadlines.	All reports and recommendations to the Government or the Minister of Finance are published within the statutory deadlines.

Financial Resources by Program Activity ($ thousands)

Program Activity[1]	Forecast Spending 2009-2010	Planned Spending			Alignment to Government of Canada Outcomes
		2010-2011	2011-2012	2012-2013	
Adjudication of Trade Cases (quasi-judicial role)	6,807	7,523	7,208	6,238	Fair and secure marketplace
General Economic Inquiries and References (advisory role)	108	119	114	99	Fair and secure marketplace
Internal Services	3,890	4,299	4,119	3,564	
Total	**10,805**	**11,941**	**11,441**	**9,901**	

1. For program activity descriptions, please access the Main Estimates online at http://www.tbs-sct.gc.ca/est-pre/estime.asp.

Contribution of the Tribunal's Priorities to its Strategic Outcome

Operational Priorities	Type	Link to Strategic Outcome	Description
Process Cases Within Legislative and Internal Deadlines and Maintain Quality Standards	Ongoing	Strategic Outcome 1	The Tribunal's overriding priority is to hear cases and make sound decisions on matters that fall within its jurisdiction within legislative and internal deadlines. In so doing, the Tribunal supports a fair marketplace in Canada, maintains its strong reputation both within Canada and throughout the world and complies with its legislative requirements.
Improve Service Delivery	Ongoing	Strategic Outcome 1	The Tribunal will continue to improve the efficiency of its services for parties and their counsel. Efficient service delivery enables the Tribunal to dispose of cases in a fair, timely and transparent manner. As part of its service delivery, the Tribunal will at all times protect personal and confidential information in its possession.

Management Priorities	Type	Link to Strategic Outcome	Description
Invest in Its People	Ongoing	Strategic Outcome 1	The Tribunal's reputation of excellence in the fair, timely and transparent disposition of cases depends largely on its highly specialized workforce working closely together to deliver on its mandate. The Tribunal will continue to encourage a positive, healthy and respectful work environment and to offer professional development opportunities with an emphasis on learning, knowledge transfer, career and succession planning. The Tribunal will also continue to offer an inclusive barrier-free selection and appointment process reflective of the Canadian population.

Management Priorities	Type	Link to Strategic Outcome	Description
Sound Management Practices	Ongoing	Strategic Outcome 1	The Tribunal will foster sound management practices in processing Tribunal cases and references and will observe all government-wide management accountability priorities, including the Management Accountability Framework (MAF) and the measures introduced under the *Federal Accountability Act*. The Tribunal will continue to evaluate its management practices to improve its performance and accountability as a whole.

Risk Analysis

Operating Environment

Looking ahead to 2010-2011, a number of external factors are expected to affect the number and mix of cases before the Tribunal. These factors include the state of the Canadian, U.S. and world economies, the trade environment and government priorities.

In 2010-2011, Canada, along with the United States and the rest of the world, is expected to be recovering from what has been the deepest recession since the 1930s.[2] The pace of the recovery in Canada is expected to be muted.[3] GDP growth resumed in the second half of 2009,[4] but employment is expected to remain low through 2010 relative to pre-recession levels.[5] International trade has been particularly hard hit by the recession and is down significantly.[6] Imports into Canada saw some increase in the second half of 2009 but are still down compared to pre-recession levels.[7] In response to the recession, the Government has introduced new spending to stimulate the economy.[8]

2. Budget 2009 — *Canada's Economic Action Plan*, tabled in the House of Commons by the Honourable James M. Flaherty, P.C., M.P., Minister of Finance, January 27, 2009, at 14 (http://www.budget.gc.ca/2009/plan/bptoc-eng.asp).
3. Bank of Canada, *Monetary Policy Report Summary*, October 2009, at 1.
4. Bank of Canada, *Monetary Policy Report Summary*, October 2009, at 13.
5. OECD, Economic Outlook No. 86, November 2009, Annex, Table 13.
6. Statistics Canada, CANSIM Table 229-0001 and Catalogue No. 65-001-X.
7. Statistics Canada, "Canadian Economic Accounts", *The Daily*, , November 30, 2009.
8. Budget 2009 - *Canada's Economic Action Plan*, tabled in the House of Commons by the Honourable James M. Flaherty, P.C., M.P., Minister of Finance, January 27, 2009, at 19-23 (http://www.budget.gc.ca/2009/plan/bptoc-eng.asp); International Monetary Fund, *World Economic Outlook*, November 2009, at 83.

The Tribunal's experience with past recessions has led it to believe that it will face a significant increase in the number of trade remedies cases, as the economy starts to recover and domestic producers and importers position themselves to participate in a growing economy. The Tribunal also believes that it will face a significant increase in the number of procurement cases because of the increase in government procurement and because of its greater importance to businesses in Canada.

The Tribunal has requested and received additional resources to help it meet the increased workload expected in 2010 through 2012. The Human Resources (HR) Branch is moving quickly on recruitment and training, since workload pressures have already materialized at the Tribunal. The Tribunal has focussed its recruitment on individuals who can contribute quickly to the case work with only a limited amount of additional training. An intensive program of formal and on-the-job training was organized for new staff.

As the number of procurement cases had been on an upward trend prior to the recession, the Tribunal will likely need to define a new norm for the number of procurement cases for 2012 and beyond. The underlying trend is being driven by government-wide initiatives focussed on accountability and transparency, in general, and procurement, in particular. This focus has raised awareness among potential bidders of their rights and the possibility of redress at the Tribunal. In the Tribunal's view, the communications initiatives of the Procurement Ombudsman have brought about even greater awareness about the rights of bidders and may generate more complaints.

The Tribunal's mandate to hear appeal cases on customs and excise tax decisions is one that needs to be monitored carefully. When the Tribunal set its baseline for these cases in 2007, it considered appeals to be a declining mandate. This has not proven to be the case. The number of new cases is on an upswing, and the proportion of cases continuing to the decision phase is increasing. Pressure is building in this mandate, as most of the appeals filed with the Tribunal during 2009-2010 will be heard in 2010-2011.

Challenges and Key Risks

The Tribunal faces risks and challenges that could impact on the organization's ability to achieve its mandate. As part of the planning process, a risk assessment is conducted, therefore, managers are aware of these risks and challenges. They are expected to take appropriate action to mitigate the risks while ensuring the delivery of the Tribunal's mandate. Risks and related strategies are also discussed at regular Executive Committee meetings.

The following are the three key risks identified in the 2010-2011 planning session.

1. **Managing cases (issuing quality decisions within deadlines) during a sustained period of heavy workload while integrating new resources:** Managing the expected increase in workload of trade remedies, procurement and appeal cases, while integrating new staff into the work of the Tribunal, will create pressures on existing and new staff to deliver quality and timely decisions. Risk management strategies relating to peak periods and case process improvement initiatives will provide some solutions to mitigate this risk.

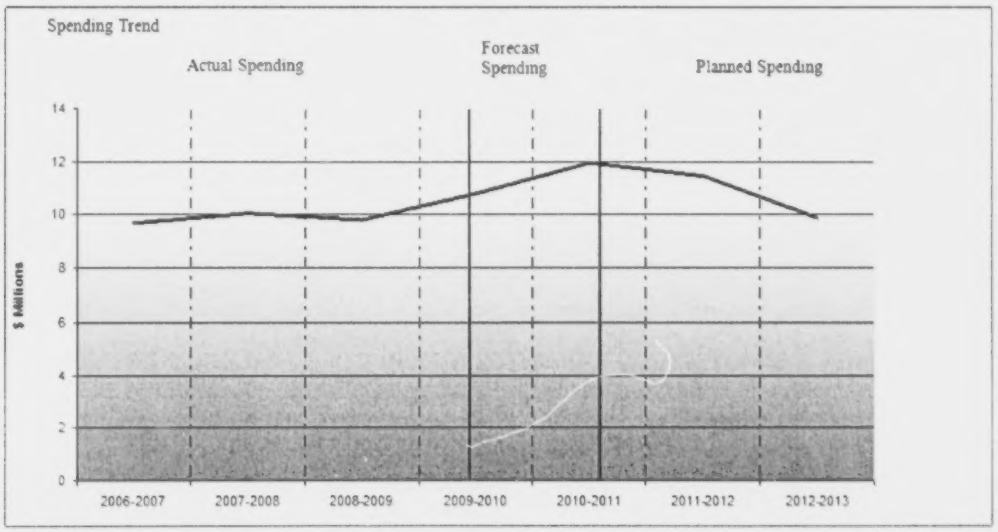
2. **Recruiting and training new staff and transferring corporate memory during a period of heavy workload:** Recruiting and training new staff during this period of heavy workload will create challenges for management and HR. Most of the new positions require highly talented and skilled individuals who may also need training before they can even start working on Tribunal cases. An HR plan is in place and addresses recruitment and training issues facing the Tribunal.
3. **Maintaining employee wellness in periods of heavy workload:** During periods of intense workloads, employees may be asked to contribute extra time and effort to their work. Work-life balance and staff wellness will be monitored carefully. Actions such as increased employee recognition, alternative work arrangements and better communication will be utilized to mitigate this risk.

Expenditure Profile

Planned and Actual Spending ($ thousands)

	Actual Spending 2006-2007	Actual Spending 2007-2008	Actual Spending 2008-2009	Forecast Spending 2009-2010	Planned Spending 2010-2011	Planned Spending 2011-2012	Planned Spending 2012-2013
Net Cost of Program	9,700	10,061	9,819	10,805	11,941	11,441	9,901

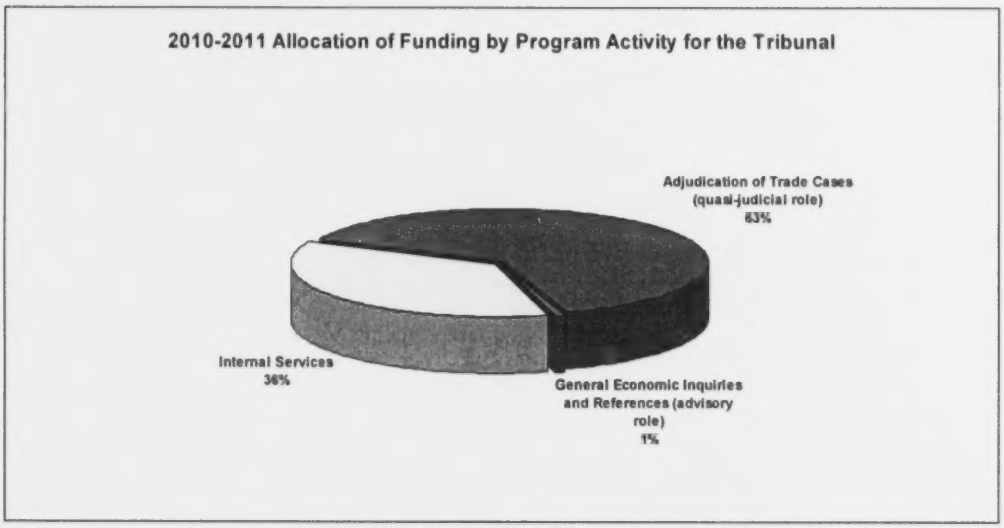
For the 2006-2007 to 2009-2010 periods, total spending includes all parliamentary appropriation: Main Estimates, Supplementary Estimates and Treasury Board Vote 15, and carry-forward adjustments. For the 2010-2011 to 2012-2013 periods, total spending corresponds to planned spending. Supplementary funding and carry-forward adjustments are unknown at this point and are therefore not reflected. Below is a graph showing the spending trend since 2006-2007.



The fluctuations in spending and planned spending since 2006-2007 can be explained by the two following events:

- In 2007-2008, the Tribunal replaced its aging hearing room audio system for a total actual cost of nearly $340,000.
- From 2009-2010 to 2011-2012, the Tribunal will be receiving additional funding to cover an operating budget shortfall resulting from its expected increase in caseload during this period of economic recovery. The funding increase is $525,000 for 2009-2010, $2.1 million for 2010-2011 and $1.575 million for 2011-2012.

The figure below displays the percentage allocation of the Tribunal's funding by program activity for 2010-2011.


2010-2011 Allocation of Funding by Program Activity for the Tribunal
Adjudication of Trade Cases (quasi-judicial role) 63%
Internal Services 36%
General Economic Inquiries and References (advisory role) 1%

Voted and Statutory Items Listed in Main Estimates

($ thousands)

Vote or Statutory Item	Truncated Vote or Statutory Wording	2010-2011 Main Estimates	2009-2010 Main Estimates
20	Program Expenditures	10,474	8,379
(S)	Contributions to Employee Benefit Plans	1,467	1,151
	Total Tribunal	11,941	9,530

SECTION II—ANALYSIS OF PROGRAM ACTIVITIES BY STRATEGIC OUTCOME

Strategic Outcome

Fair, timely and transparent disposition of international trade cases, procurement cases and government-mandated inquiries within the Tribunal's jurisdiction.

The following section describes the Tribunal's program activities and identifies the expected result, performance indicators and targets for each of them. This section also explains how the Tribunal plans on meeting the expected results and presents the financial and non-financial resources that will be dedicated to each program activity.

This section will contain a discussion of plans surrounding the following program activities:

- Adjudication of Trade Cases (quasi-judicial role)
- General Economic Inquiries and References (advisory role)
- Internal Services

Activity No. 1—Adjudication of Trade Cases (quasi-judicial role)

Human Resources (FTEs) and Planned Spending ($ thousands)					
2010-2011		2011-2012		2012-2013	
FTEs	Planned Spending	FTEs	Planned Spending	FTEs	Planned Spending
67	7,523	64	7,208	52	6,238

Program Activity Expected Results	Performance Indicators	Targets
Tribunal decisions are fair, impartial and based on quality information.	Tribunal decisions are overturned by the following national and international appeal bodies: • Federal Court of Appeal • Binational panels under *NAFTA* • Dispute settlement body, WTO *Understanding on Rules and Procedures Governing the Settlement of Disputes* • Federal Court	Less than 2 percent of all Tribunal decisions rendered will be overturned.
	Soundness of the Tribunal's decisions under judicial review that are overturned by the Federal Court of Appeal and/or international appeal bodies based on "due process" not being followed.	Less than 1 percent of all decisions on due process will be overturned.
	ibunal notices, decisions and guidelines for all areas of its mandate and practice notices are accessible to the public.	All notices, practice notices, decisions and guidelines for all areas of the Tribunal's mandate are accessible to the public.
	Decisions are issued within statutory deadlines. The Tribunal's decisions regarding dumping and/or subsidizing, safeguard inquiries and procurement complaints are subject to statutory deadlines.	All decisions are issued within the legislated deadline.
	Appeal decisions are issued within internal deadlines. There is no statutory deadline imposed for appeals of decisions of the CBSA and Minister of National Revenue. However, the Tribunal has adopted an informal, voluntary standard of issuing such decisions within 120 days of the hearing of an appeal.	70 percent of internal deadlines are met.

Program Activity Summary and Planning Highlights

In its quasi-judicial role, the Tribunal inquires into trade-related complaints (i.e. dumping, subsidizing and safeguards) and complaints regarding federal government procurement. The Tribunal hears appeals from decisions of the Minister of National Revenue and the CBSA under the *Excise Tax Act* and the *Customs Act* respectively.

Planning Highlights: In order to achieve the expected result for its quasi-judicial role, the Tribunal plans to undertake the following activities:

- **Review of the Tribunal's Rules of Procedure:** The Tribunal will undertake an extensive review of its Rules of Procedure in order to streamline proceedings, reduce the paper burden imposed on parties, and increase efficiency and transparency while preserving fairness and protection of confidential information. It is expected that this initiative, which will benefit from the input of the Tribunal's stakeholders, will contribute to the Tribunal's main objective of processing cases within legislative and internal deadlines, maintaining quality standards and making sound decisions.
- **Improving and Facilitating Access to the Tribunal's Records:** One of the initiatives that the Tribunal will undertake is looking at ways of improving and facilitating access to the Tribunal's records without compromising the protection of confidential information. For example, the Tribunal is developing an E-ToolKit application that will allow counsel to have access to and to search the Tribunal's record via a secure Web-based application. In an effort to reduce the paper burden, the Tribunal is also exploring the possibility of distributing Tribunal records using alternative means, such as secure USB keys. These changes will be implemented progressively, in consultation with stakeholders.

Activity No. 2—General Economic Inquiries and References (advisory role)

Human Resources (FTEs) and Planned Spending ($ thousands)					
2010-2011		2011-2012		2012-2013	
FTEs	Planned Spending	FTEs	Planned Spending	FTEs	Planned Spending
1	119	1	114	1	99

Program Activity Expected Results	Performance Indicators	Targets
Tribunal recommendations on economic, trade, tariff matters and the standing textile reference are fair, impartial and based on quality information.	Recommendations meet the terms of reference and provide requested information. An indicator of the soundness of the Tribunal's decisions is the number of requests for additional information from the Minister of Finance.	All recommendations meet the terms of reference.
	Reports, decisions and recommendations are published within government-mandated deadlines. The Tribunal's recommendations regarding the tariff reference and economic inquiries are subject to statutory deadlines.	All recommendations are published within statutory deadlines.
Program Activity Summary and Planning Highlights In its advisory role, the Tribunal undertakes general economic inquiries and tariff references for the Minister of Finance or the Governor in Council.		

Activity No. 3—Internal Services Program Activity

Human Resources (FTEs) and Planned Spending ($ thousands)					
2010-2011		2011-2012		2012-2013	
FTEs	Planned Spending	FTEs	Planned Spending	FTEs	Planned Spending
28	4,299	26	4,119	24	3,564

Program Activity Summary and Planning Highlights

Internal Services are groups of related activities and resources that are administered to support the needs of the program and other corporate obligations of an organization. These groups are: Governance and Management Support; Resources Management Services and Asset Management Services. Internal Services include only those activities and resources that apply across an organization and not to those provided specifically to a program.

The Tribunal's planning highlights for Internal Services include the following.

- **Recruitment and Staffing**: In response to a high volume of trade, procurement and appeal cases, the Tribunal will have a larger workforce in 2010-2011 and 2011-2012 than it currently has.
- **Professional Development**: In 2010-2011, the Tribunal will focus both on the training of new employees and the development of existing employees. As well, a leadership training curriculum will be developed for current and potential managers at the Tribunal so as to retain the Tribunal's top management talent. There will also be another instalment of the Value and Ethics Workshop for the Tribunal staff, which will help to ensure that new and existing staff embrace the Tribunal's culture and core values.
- **Accountability and Transparency**: In 2010-2011, the Tribunal will continue to address opportunities for improvement resulting from its MAF assessment and from the small departments' and agencies' horizontal audits.
- **Improve Efficiency and Reliability of Tribunal's Infrastructure**: The Tribunal will continue to improve the efficiency and reliability of its IT infrastructure in 2010-2011 by adhering to the environmental virtualization of its servers to increase performance, stability, maintenance and the business continuity plan readiness of its network. Also, to improve instant messaging services to employees, the Tribunal will study the feasibility of implementing a collaborative software environment.

Benefits to Canadians

Through its program activities, the Tribunal provides the following benefits to Canadians:

- Access to fair and efficient processes for investigating complaints of injury caused by unfairly traded imports, complaints on designated federal government procurements and appeals on customs and excise matters
- Reliable economic and trade analysis and advice for the Government
- Through the above, a favourable environment for a fair and secure trading system for individual Canadians and the Canadian business sector

SECTION III—SUPPLEMENTARY INFORMATION

Supplementary information table

The electronic supplementary information table on Internal Audits for the 2010-2011 Report on Plans and Priorities can be found on the Treasury Board of Canada Secretariat's Web site at http://www.tbs-sct.gc.ca/rpp/2010-2011/info/info-eng.asp.

Contact for Further Information and Web Site

The Secretary
Canadian International Trade Tribunal
Standard Life Centre
333 Laurier Avenue West
17th Floor
Ottawa, Ontario
K1A 0G7

Telephone:	613-993-3595
Fax:	613-998-1322
E-mail:	secretary@citt-tcce.gc.ca
Tribunal's Web site:	http://www.citt-tcce.gc.ca

Legislation Governing the Work of the Canadian International Trade Tribunal

Canadian International Trade Tribunal Act	R.S.C. 1985 (4th Supp.), c. 47
Customs Act	R.S.C. 1985 (2d Supp.), c. 1
Excise Tax Act	R.S.C. 1985, c. E-15
Special Import Measures Act	R.S.C. 1985, c. S-15
Energy Administration Act	R.S.C. 1985, c. E-6
Canadian International Trade Tribunal Regulations	S.O.R./89-35
Canadian International Trade Tribunal Procurement Inquiry Regulations	S.O.R./93-602
Canadian International Trade Tribunal Rules	S.O.R./91-499

Tribunal Publications

For a complete list of Tribunal publications, please see the Tribunal's Web site at http://www.citt-tcce.gc.ca/publicat/index_e.asp.